

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

WES BARNES,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:08-CV-146
)	(VARLAN/GUYTON)
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

This Social Security appeal is before the Court on the Report and Recommendation filed by United States Magistrate Judge H. Bruce Guyton on April 10, 2009. [Doc. 16.] There have been no timely objections to the Report and Recommendation, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Magistrate Judge Guyton found that the defendant Commissioner's motion for summary judgment [Doc. 14] should be denied and that plaintiff's motion for summary judgment [Doc. 10] should be granted for purposes of remanding the case.

The Court has carefully reviewed this matter, including the underlying pleadings [Docs. 10, 11, 14, 15]. The Court is in agreement with Magistrate Judge Guyton's recommendation which the Court adopts and incorporates into its ruling. Accordingly, the Court **ACCEPTS IN WHOLE** the Report and Recommendation [Doc. 16.] Additionally,

it is **ORDERED** that: Plaintiff's motion for summary judgment [Doc. 10] is **GRANTED** only for remanding the case; the Commissioner's motion for summary judgment [Doc. 14] is **DENIED**; the Commissioner's decision in this case denying plaintiff's application for benefits under the Social Security Act is **REVERSED**; and this case is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for a new hearing consistent with this opinion and Magistrate Judge Guyton's Report and Recommendation.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE